

done in the course of conciliation under this part may be made public or used as evidence in a subsequent administrative hearing under Part 180 or in civil actions under Title VIII of the Fair Housing Act, without the written consent of the persons concerned." None of the documents at issue appear to be the product of a conciliation process. We therefore have no basis on which to conclude that any of the records at issue are made confidential under 24 C.F.R. § 103.330(a) and excepted from disclosure pursuant to section 552.101 of the Government Code.

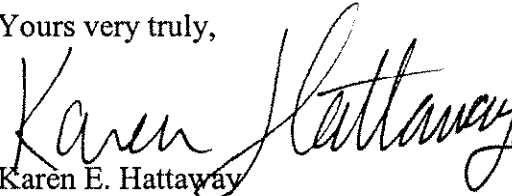
We next address your arguments under section 552.103 of the Government Code. To secure the protection of section 552.103, a governmental body must demonstrate that the requested information relates to pending or reasonably anticipated litigation to which the governmental body is a party. Open Records Decision No. 588 (1991) at 1. The mere chance of litigation will not trigger section 552.103(a). Open Records Decision No. 452 (1986) at 4 and authorities cited therein. To demonstrate that litigation is reasonably anticipated, the governmental body must furnish evidence that litigation involving a specific matter is realistically contemplated and is more than mere conjecture. *Id.* You explain that

violations of the housing discrimination statutes under the Civil Rights Act, like violations of the employment discrimination statutes, are investigated by an administrative agency after a complaint is filed. They should also result in a substantial likelihood of litigation, which will occur after the complaint is processed.

Assuming the city has not yet reached a conciliation with HUD and the complainants, we conclude that you have met your burden in establishing that the requested records "relate" to reasonably anticipated litigation. This does not, however, end our discussion of whether the city may withhold the requested records pursuant to section 552.103. Once information has been obtained by all parties to the litigation, *e.g.*, through discovery or otherwise, no section 552.103 interest exists with respect to that information. Open Records Decision Nos. 349 (1982), 320 (1982). The records sought by the requestor have necessarily been shared with the opposing parties to the anticipated litigation. Because the opposing parties in the litigation have seen the information in these records, there is no justification for now withholding that information from the requestor pursuant to section 552.103. Accordingly, the city must release the requested information in its entirety.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink, reading "Karen Hattaway". The signature is fluid and cursive, with the first name "Karen" and last name "Hattaway" clearly distinguishable.

Karen E. Hattaway  
Assistant Attorney General  
Open Records Division

KEH/RWP/mjc

Ref.: ID# 116271

Enclosures: Submitted documents

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